

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

2 -----x
UNITED STATES OF AMERICA,

3
4 Plaintiff,

Docket No.:

15 CR 637 (KAM)

5 versus

6 MARTIN SHKRELI,

U.S. Courthouse

225 Cadman Plaza East

7 Defendant.

Brooklyn, NY 11201

8 August 4, 2017

9:00 a.m.

9 Transcript of Criminal Cause for Trial

10 Before: HONORABLE KIYO A. MATSUMOTO,

District Court Judge

11 (and a jury.)

12 APPEARANCES

13 For the Government:

BRIDGET M. ROHDE, ESQ.

Acting United States Attorney

Eastern District of New York

271 Cadman Plaza East

Brooklyn, New York 11201

16 BY: JACQUELYN M. KASULIS, ESQ.,

ALIXANDRA E. SMITH, ESQ.,

G. KARTHIK SRINIVASAN, ESQ.,

17 Assistant U.S. Attorneys

18 For the Defendant:

BRAFMAN & ASSOCIATES, P.C.

767 Third Avenue

New York, New York 10017

19 BY: BENJAMIN BRAFMAN, ESQ.

MARC AGNIFILO, ESQ.

20 ANDREA ZELLAN, ESQ.

21 JACOB KAPLAN, ESQ.

22 Court Reporter:

MICHELE NARDONE, CSR

Official Court Reporter

23 Phone: 718-613-2601

24 Email: Mishrpr@aol.com

25 Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription.

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

1 (In open court.)

2 (Defendant present.)

3 THE COURT: All right. I just wanted to report that
4 all jurors are present and we've asked them to start their
5 deliberations.

6 We'll advise you of any further notes or anything
7 else.

8 MR. AGNIFILO: Thank you.

9 MS. KASULIS: Thank you, Your Honor.

10 (Court in recess awaiting the verdict of the jury.)

11 (Time noted: 9:20 a.m.)

12 (Continued on the next page.)

13

14

15

16

17

18

19

20

21

22

23

24

25

HOLLY DRISCOLL, CSR
OFFICIAL COURT REPORTER

USA v. Shkreli

A F T E R N O O N S E S S I O N

(In open court.)

(Defendant present.)

(Court Exhibit 12 so marked.)

THE COURT: Have a seat, please. We have a note from the jury, which we have marked as Court Exhibit number 12. "The jury has reached a verdict." So we will be bringing the jury in soon.

The question is whether either party would like the jurors -- can everyone just calm down over there. Would you like the jurors polled, Mr. Brafman?

MR. BRAFMAN: Can I answer that after I hear the verdict?

THE COURT: Sure. What about the government?

MS. KASULIS: Yes, please, Your Honor.

THE COURT: All right. They need to calm themselves down or they can't come in.

We are going to bring in the jury momentarily. I think we can line them up now. We can have the alternates just sit in the front. Okay. Thank you.

(Pause.)

(Jury enters at 2:42 p.m.)

THE COURT: We have all jurors present. Please have a seat, everybody. I have a note from the jurors that they have reached a verdict.

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

1 May I ask the foreperson whether the jury has reached
2 a unanimous verdict?

3 THE FOREPERSON: Yes, Your Honor.

4 THE COURT: All right. May I please have the verdict
5 sheet. Have you signed and dated it, as directed?

6 THE FOREPERSON: Yes.

7 THE COURT: Thank you. The alternate jurors may come
8 up and sit in front.

9 I'm prepared to publish the verdict. I would ask all
10 jurors to please listen carefully because it is possible that
11 when I finish reading the verdict either side may request that
12 I poll the jury, which means I will ask you each individually
13 whether the verdict as read represents your own individual
14 verdict.

15 In the case of United States of America versus Martin
16 Shkreli, as to count one, conspiracy to commit securities
17 fraud: On the charge of conspiracy to commit securities fraud
18 in connection with MSMB Capital in count one, how do you
19 find -- how do you unanimously find the Defendant Martin
20 Shkreli? Not guilty.

21 As to count two, conspiracy to commit wire fraud: On
22 the charge of conspiracy to commit wire fraud in connection
23 with MSMB Capital in count two, how do you unanimously find the
24 Defendant Martin Shkreli? Not guilty.

25 As to count three, securities fraud: On the charge of

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

1 securities fraud in connection with MSMB Capital in count
2 three, how do you unanimously find the Defendant Martin
3 Shkreli? Guilty.

4 As to count four, conspiracy to commit securities
5 fraud: On the charge of conspiracy to commit securities fraud
6 in connection with MSMB Healthcare in count four, how do you
7 unanimously find the Defendant Martin Shkreli? Not guilty.

8 As to count five, conspiracy to commit wire fraud: On
9 the charge of conspiracy to commit wire fraud in connection
10 with MSMB Healthcare in count five, how do you unanimously find
11 the Defendant Martin Shkreli? Not guilty.

12 As to count six, securities fraud: On the charge of
13 securities fraud in connection with MSMB Healthcare in count
14 six, how do you unanimously find the Defendant Martin Shkreli?
15 Guilty.

16 As to count seven, conspiracy to commit wire fraud:
17 On the charge of conspiracy to commit wire fraud in connection
18 with Retrophin in count seven, how do you unanimously find the
19 Defendant Martin Shkreli? Not guilty.

20 As to count eight, conspiracy to commit securities
21 fraud: On the charge of conspiracy to commit securities fraud
22 in connection with Retrophin in count eight, how do you
23 unanimously find the Defendant Martin Shkreli? Guilty.

24 Would the parties like the jurors to be polled? The
25 government, I believe, would like that.

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

1 MS. KASULIS: Yes, Your Honor.

2 THE COURT: And the defense as well?

3 MR. BRAFMAN: Yes, Your Honor.

4 THE COURT: All right.

5 Juror number 1, with respect to the verdict as read,
6 does it represent your own true verdict?

7 JUROR: Yes.

8 THE COURT: Juror number 2?

9 JUROR: Yes, Your Honor.

10 THE COURT: Juror number 3?

11 JUROR: Yes, Your Honor.

12 THE COURT: Juror number 4?

13 JUROR: Yes, Your Honor.

14 THE COURT: Juror number 5?

15 JUROR: Yes, Your Honor.

16 THE COURT: Juror number 6?

17 JUROR: Yes, Your Honor.

18 THE COURT: Juror number 7?

19 JUROR: Yes, Your Honor.

20 THE COURT: Juror number 8?

21 JUROR: Yes, Your Honor.

22 THE COURT: Juror number 9?

23 JUROR: Yes.

24 THE COURT: Juror number 10?

25 JUROR: Yes, Your Honor.

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

1 THE COURT: Juror number 11?

2 JUROR: Yes, Your Honor.

3 THE COURT: Juror number 12?

4 JUROR: Yes, Your Honor.

5 THE COURT: All right. We will accept the verdict and
6 enter it in the docket.

7 I would like to thank both the jurors and the
8 alternates for their attention during this trial and their
9 service to the court and the parties. We will escort you to
10 the back and provide your paperwork to you; and I'm going to
11 have a brief word with the parties before we move forward -- I
12 mean with the jurors. If you would give me one moment. Thank
13 you.

14 The alternates can also follow the main jurors out.
15 Will the alternates come forward and come -- we have your
16 paperwork.

17 (Jury exits at 2:48 p.m.)

18 THE COURT: We will be back in a couple of minutes.

19 (Recess.)

20 THE COURT: All right. Please have a seat.

21 I think perhaps we need to schedule the forfeiture
22 phase of this and also talk about any motions that may be made
23 and how we would like to schedule those. So I'm happy to hear
24 from the parties at this time.

25 MS. KASULIS: Your Honor, I believe there was a

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

1 stipulation with respect to the forfeiture that we handed up to
2 the court.

3 THE COURT: Yes.

4 MR. BRAFMAN: Judge, there was an acquittal on the
5 Retrophin count, which, I think, may impact the amount. So I
6 think we don't need to schedule -- we will write to the court
7 and the government. Maybe we can agree on what our respective
8 positions are.

9 MS. KASULIS: We can do that, Your Honor.

10 THE COURT: All right. Are there any motions that the
11 parties would like to make? I think there was a renewal, or
12 not?

13 MR. BRAFMAN: Excuse me?

14 THE COURT: Did you want to renew any of your motions?

15 MR. BRAFMAN: I think we should, yes.

16 THE COURT: Shall we schedule those now?

17 MR. AGNIFILO: It makes sense to schedule it now, I
18 think.

19 THE COURT: I think so too.

20 MR. BRAFMAN: We can do it in writing, Your Honor.

21 THE COURT: Sure.

22 MR. AGNIFILO: I'm not sure what Your Honor's schedule
23 is. I mean, two or three weeks.

24 THE COURT: I know that the rules provide a certain
25 amount of time, and it seems to me that there is quite a record

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

1 that you didn't have, you know, a written transcript when you
2 made your oral motions. So why don't you tell me.

3 MR. BRAFMAN: If we could have the first week of
4 September, if that fits with Your Honor's schedule.

5 THE COURT: Sure. So shall I say September 8?

6 MR. BRAFMAN: That's fine, judge. Thank you.

7 THE COURT: When would the government like to respond?

8 MS. KASULIS: Three weeks, Your Honor.

9 THE COURT: September 29?

10 MS. KASULIS: It's Yom Kippur, Your Honor. Could we
11 have the next business day?

12 THE COURT: Sure. October 6?

13 MS. KASULIS: That's fine, Your Honor. Thank you.

14 THE COURT: Would the defense like to reserve a reply?

15 MR. BRAFMAN: Yes, judge, for a week after that date.

16 THE COURT: All right. There are no holidays at that
17 time. October 13 is fine?

18 MR. AGNIFILO: Fine.

19 MS. KASULIS: I think that's fine, Your Honor.

20 THE COURT: All right.

21 MR. BRAFMAN: Does Your Honor want to hear oral
22 argument on that motion?

23 THE COURT: I'm happy to hear you, if you would like
24 to be heard. Otherwise, I will take it on submission.

25 MR. BRAFMAN: I think we will do it on papers. I

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

1 think if we need to respond, we will write to the court.

2 THE COURT: Of course, and we will continue
3 Mr. Shkreli's bail.

4 MR. BRAFMAN: Thank you, Your Honor. Is the court
5 going to set a sentencing date today or wait until after you
6 hear the motions?

7 THE COURT: I thought perhaps it might be best that --
8 I'm happy to entertain sentencing dates. I do have other
9 trials lined up.

10 MR. BRAFMAN: Well, the difficulty is once we -- once
11 you set a date, then Probation gets geared up; and, if we still
12 have motions pending, I would hope to avoid having to do that.

13 THE COURT: All right. Why don't we do this then. I
14 will --

15 MR. BRAFMAN: I would ask not to set a sentencing date
16 today. We can always revisit the issue, since you are going to
17 be hearing motions.

18 THE COURT: All right. That's fine.

19 MR. BRAFMAN: Thank you.

20 THE COURT: Is there anything else the parties would
21 like me to address at this time?

22 MR. BRAFMAN: No. We want to thank you for your
23 patience, judge.

24 THE COURT: I want to thank all the attorneys for
25 their hard work.

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

1 I wish you well, Mr. Shkreli. I will see you soon.

2 MS. KASULIS: Thank you, Your Honor.

3 THE COURT: At some point you might want to come and
4 retrieve your exhibits.

5 MR. BRAFMAN: Can we do that Monday, judge?

6 THE COURT: Yes. We will gather things from the jury
7 room, and then you can come and retrieve your exhibits.

8 MS. KASULIS: All right.

9 THE COURT: Thank you.

10 (End of proceedings.)

11 o O o

12

13 Certified to be a true and accurate transcript.
14 /s/ Michele Nardone
MICHELE NARDONE, CSR -- Official Court Reporter

15

16

17

18

19

20

21

22

23

24

25

MICHELE NARDONE, CSR -- Official Court Reporter

USA v. Shkreli

5666

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

COURT EXHIBIT

Court Exhibit 12

5658

o O o